

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

MALIBU BOATS, LLC,

Plaintiff/Counterclaim Defendant,

v.

SKIER'S CHOICE, INC.,

Defendant/Counterclaim Plaintiff.

Case No. 3:18-CV-015
[Consolidated with 3:19-CV-225]

JOINT REQUEST FOR TELEPHONIC RULE 16 STATUS CONFERENCE

Malibu Boats, LLC ("Malibu") and Skier's Choice, Inc. ("Skier's Choice") submit this Joint Request for a Telephonic Rule 16 Status Conference concerning the remaining deadlines and trial in this matter. In support, the parties state as follows:

1. Under the Court's Second Scheduling Order [Doc. 81], the remaining deadlines in this case are as follows: Witness Lists due August 19, 2020; Pretrial Disclosures, Joint Pretrial Order, Motions *in Limine* and Jury Instructions due August 26, 2020; and Trial Briefs due September 9, 2020. In addition, the Pretrial Conference is currently set for September 18, 2020, and the jury trial in this matter currently set to begin on September 29, 2020. *Id.*

2. The COVID-19 pandemic remains ongoing.

3. Due to the ongoing COVID-19 pandemic, the parties seek to discuss with the Court whether this matter will proceed for trial on September 29, 2020. To be clear, Malibu would prefer to proceed with the schedule as set but will defer to the Court's instruction.

4. Further, there has been no claim construction ruling in this case to date. Adjudication of these pending issues may affect the evidence used at trial as well as the parties' pretrial submissions concerning the same.

5. As a result, the parties jointly request a telephonic status conference before the Court to discuss the scheduling of the trial in this matter as well as the scheduling of the remaining deadlines. The foregoing is requested for good cause and for judicial economy in view of the ongoing COVID-19 pandemic.

6. Accordingly, the parties respectfully request that the Court set a telephonic scheduling conference in this matter on a date and time convenient for the Court, but, if possible, prior to August 12, 2020.

Dated: August 5, 2020

/s/Zachary A.P. Oubre

R. Bradford Brittan (007130)
John T. Winemiller (021084)
Ian G. McFarland (030549)
Merchant & Gould, P.C.
800 S. Gay Street, Suite 2150
Knoxville, TN 37929
Telephone: (865) 380-5960
Fax: (612) 332-9081
jwinemiller@merchantgould.com
bbrittan@merchantgould.com
imcfarland@merchantgould.com

Admitted Pro Hac Vice

Michael J. LaBrie, OBA #16253
Spencer F. Smith, OBA #20430
Zachary A.P. Oubre, OBA #30666
McAfee & Taft A Professional Corporation
Tenth Floor, Two Leadership Square
211 N. Robinson
Oklahoma City, OK 73102
Telephone: (405) 235-9621
Fax: (405) 235-0439
mike.labrie@mcafeetaft.com
spencer.smith@mcafeetaft.com
zach.oubre@mcafeetaft.com

Attorneys for

SKIER'S CHOICE, INC.

/s/ David S. Almeling (signed w/ permission)

Darin W. Snyder (*admitted pro hac vice*)
dsnyder@omm.com
David S. Almeling (*admitted pro hac vice*)
dalmeling@omm.com
Cameron W. Westin (*admitted pro hac vice*)
cwestin@omm.com
O'MELVENY & MYERS LLP
Two Embarcadero Center, 28th Floor
San Francisco, California 94111-3823
Telephone: (415) 984-8700
Facsimile: (415) 984-8701

Matthew M. Googe (TN BPR #030164)
mgooge@robinsoniplaw.com
Michael E. Robinson (TN BPR #024681)
rrobinson@robinsoniplaw.com
ROBINSON IP LAW, PLLC
9274 Kingston Pike, Suite 1403
Knoxville, Tennessee 37922
Telephone: (865) 978-6480
Facsimile: (865) 978-6493

Attorneys for

MALIBU BOATS, LLC